

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON

GORDON SCOTT STROH,

Plaintiff,

v.

SATURNA CAPITAL CORPORATION;  
NICHOLAS KAISER and DEBORAH  
KAISER, husband and wife; and JANE  
CARTEN and TERRENCE CARTEN, wife  
and husband,

Defendants.

Case No.

**COMPLAINT FOR DAMAGES  
AND JURY DEMAND**

For Complaint, Plaintiff, Gordon Scott Stroh ("Scott Stroh" or "Stroh") alleges as follows.

**Parties**

1. Plaintiff G. Scott Stroh ("Stroh") is single. He and his three children reside in Bellingham, Washington.

2. Defendant Saturna Capital Corporation ("Saturna" or "Saturna Capital") is a non-public Washington corporation headquartered in Bellingham, Washington.

3. Defendant Nicholas Kaiser ("Kaiser") resides in Bellingham, Washington. Kaiser is a director, Chairman of the Board, and by far the largest shareholder of Saturna.

4. Defendant Jane Carten ("Carten") resides in Bellingham, Washington. Carten is a director and the President of Saturna. Kaiser is her father.

COMPLAINT FOR DAMAGES AND JURY DEMAND - 1

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## Jurisdiction and Venue

4. Claims asserted herein arise under federal statutes, including 18 U.S.C. § 1514A and 15 U.S.C. § 78u-6.

5. The Court has subject matter jurisdiction pursuant to 18 U.S.C. § 1514A(b)(1)(B), 15 U.S.C. § 7202(b)(1), 15 U.S.C. § 78u-6(h)(1)(B)(i), 15 U.S.C. § 78aa, and 28 U.S.C. § 1331; and the Court has supplemental jurisdiction over the related state law claims under 28 U.S.C. § 1367(a).

6. Venue is proper under 28 U.S.C. § 1391(c) (1) and (2) because the individual defendants are domiciled in Bellingham, Washington and the corporate defendant maintains its principal place of business in Bellingham.

## Background

### Summary

7. Saturna is an investment adviser registered as such with the United States Securities and Exchange Commission ("SEC") under the Investment Advisers Act of 1940. Saturna carries out its operations through affiliates as well, including Saturna Brokerage Services, a securities broker-dealer registered under the Securities Exchange Act of 1934 ("SBS"), Saturna Trust Company ("STC"), Saturna Sendarian Berhad ("SSB"), Amana Mutual Funds Trust ("AMFT") and Saturna Investment Trust ("SIT").<sup>1</sup> Actions by Kaiser, Carten and other managers of Saturna and its affiliates have given rise to federal statutory and state common law claims by Stroh. These include whistleblower and anti-retaliation claims under federal statutes including 18 U.S. Code § 1514A (Sarbanes Oxley – "SOX") and 15 U.S. Code § 78u-6 (securities whistleblower incentives and protection) (Dodd Frank) and Washington common law claims including retaliation, wrongful termination, constructive discharge, breach of securities professional ethical conduct duties, intentional infliction of emotional distress and

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<sup>1</sup> STC is a trust company, licensed by the Nevada Financial Institutions Division, SIT and Amana are registered investment companies registered pursuant to the Investment Company Act of 1940.

1 defamation.

2 8. Mr. Stroh, until his termination, served as Chief Legal Officer for Saturna  
3 Capital and Saturna Trust Company, Chief Compliance Officer for Saturna Brokerage Services  
4 and Anti-Money Laundering Officer for Saturna Brokerage Services, Amana Mutual Funds  
5 Trust and Saturna Investment Trust.

6 [Plaintiff has redacted most of this Complaint because Defendants have previously  
7 asserted that details herein are protected attorney-client privileged communications or  
8 confidential business information. An unredacted version of the Complaint will be  
9 submitted under seal along with a motion to seal pursuant to LCR 5(g) when counsel for  
10 defendants have appeared in this action.]

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27 COMPLAINT FOR DAMAGES AND JURY DEMAND - 3

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COMPLAINT FOR DAMAGES AND JURY DEMAND - 4

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COMPLAINT FOR DAMAGES AND JURY DEMAND - 5

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COMPLAINT FOR DAMAGES AND JURY DEMAND - 6

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COMPLAINT FOR DAMAGES AND JURY DEMAND - 7

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COMPLAINT FOR DAMAGES AND JURY DEMAND - 8

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COMPLAINT FOR DAMAGES AND JURY DEMAND - 9

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COMPLAINT FOR DAMAGES AND JURY DEMAND - 10

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26 <sup>2</sup> Saturna stock split 20 for 1 in October of 2013. For the purpose of clarity, pre-split prices are used throughout  
27 this Complaint.

<sup>3</sup> <http://www.sec.gov/litigation/complaints/2011/comp-pr2011-261.pdf>

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COMPLAINT FOR DAMAGES AND JURY DEMAND - 12

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COMPLAINT FOR DAMAGES AND JURY DEMAND - 13

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<sup>4</sup> SEC Release No. IC-24828

COMPLAINT FOR DAMAGES AND JURY DEMAND - 14

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COMPLAINT FOR DAMAGES AND JURY DEMAND - 15

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COMPLAINT FOR DAMAGES AND JURY DEMAND - 16

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27 COMPLAINT FOR DAMAGES AND JURY DEMAND - 17

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<sup>5</sup> 17 CFR 270.12(b)(1).

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<sup>6</sup> 15 U.S.C. § 78o(a)(1). This section compels registration of most broker-dealers by prohibiting the use by any broker or dealer of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security unless such broker or dealer is registered with the SEC in accordance with the Securities Exchange Act.

COMPLAINT FOR DAMAGES AND JURY DEMAND - 19

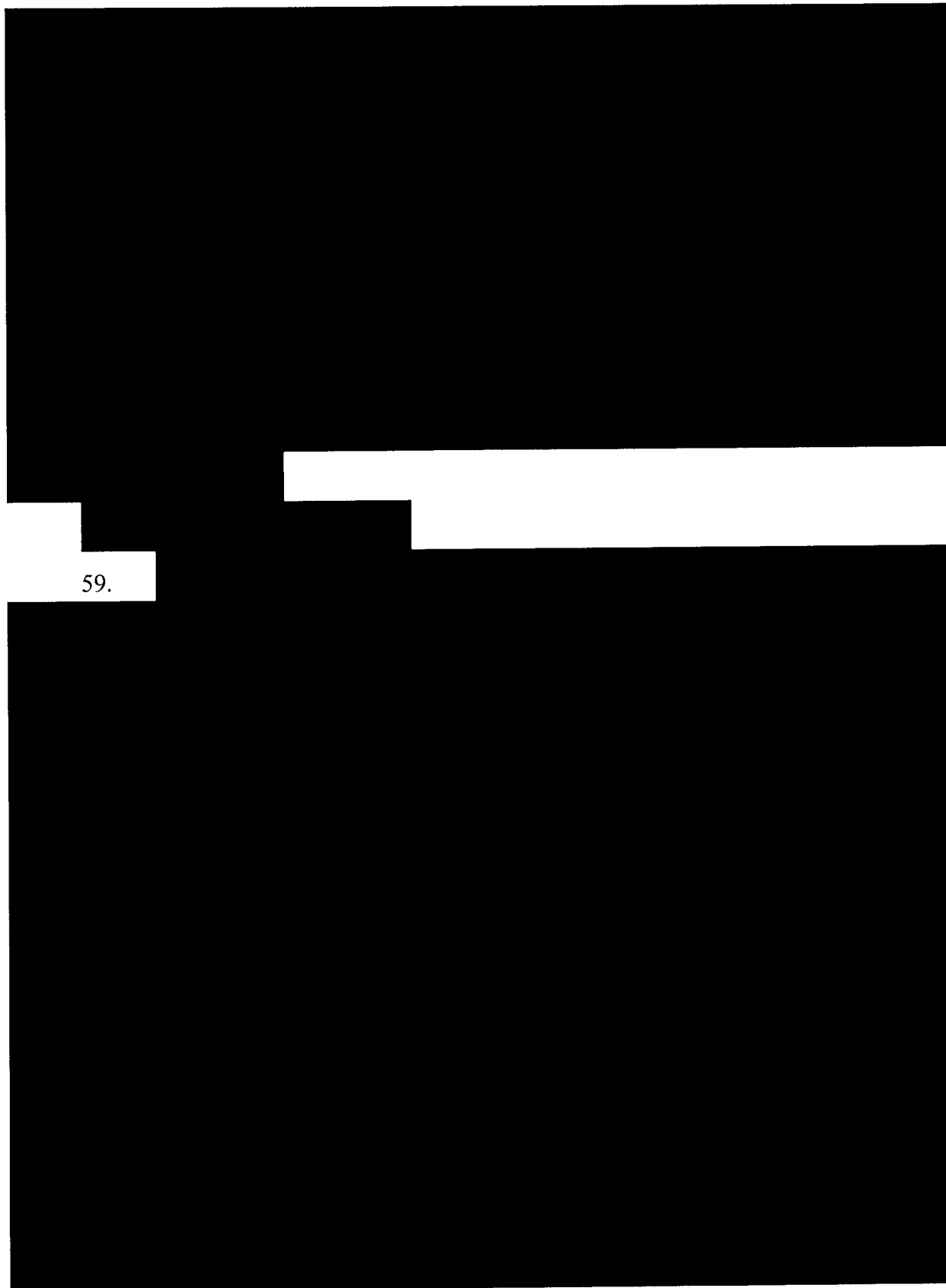
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COMPLAINT FOR DAMAGES AND JURY DEMAND - 20

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COMPLAINT FOR DAMAGES AND JURY DEMAND - 22

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24 64. After many retaliatory acts, some of which are described above, Saturna's  
25 artificial acceptance of a resignation that never took place was the final one.  
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COMPLAINT FOR DAMAGES AND JURY DEMAND - 23

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**FIRST CAUSE OF ACTION**  
**(Whistleblower Protection Under 18 U.S.C. § 1514A)**  
**(Against all Defendants)**

65. Plaintiff incorporates by this reference the allegations in the preceding paragraphs.

66. Plaintiff was an employee of Saturna, which is a private contractor of public companies that were registered and publicly traded mutual funds for which Saturna served as investment adviser.<sup>7</sup> Plaintiff's job performance in the compliance department and as CLO of Saturna took place over a substantial period; and his complaint arises out of Saturna fulfilling its role as a contracted investment adviser for the mutual fund public companies, and not in some other capacity.

67. Plaintiff was threatened, harassed, discriminated against and ultimately discharged by Saturna because of his lawful acts in providing legal advice to rectify and avoid violations of securities regulations by Saturna.

68.

<sup>7</sup> *Larson v. FMR LLC*, 134 S.Ct. 1158, 1161 (2014) ("We hold, based on the text of § 1514A, the mischief to which Congress was responding, and earlier legislation Congress drew upon, that the provision shelters employees of private contractors and subcontractors, just as it shelters employees of the public company served by the contractors and subcontractors."). The text of § 1514A (SOX Section 806) provides in pertinent part,

No company . . . may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee . . . because of any lawful act done by the employee—

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of . . . any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders . .



69.

70. Plaintiff timely filed a complaint before the Department of Labor in the Seattle office of OSHA pursuant to 18 U.S.C. § 1514A (the "DOL complaint").

71. More than 180 days have passed since Plaintiff timely filed the DOL complaint; and the DOL has not issued a final decision. The DOL complaint was withdrawn before this lawsuit was filed.

72. As a result of the Defendants' threatening, harassing, discriminating against and ultimately discharging him, Plaintiff has suffered damages in excess of \$9 million in lost earnings, back pay, benefits, bonuses, stock options and prospects for income.

73. Plaintiff is entitled to relief pursuant to 18 U.S.C. § 1514A(c)(1) and (2), including but not limited to reinstatement with the same seniority status that Plaintiff would have had but for the threatening, harassing, discrimination and discharge; back pay, bonuses

COMPLAINT FOR DAMAGES AND JURY DEMAND - 25

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1 and stock options with interest; and compensation for special damages, including litigation  
2 costs, emotional distress, expert witness fees and reasonable attorney fees.

3 **SECOND CAUSE OF ACTION**  
4 **15 U.S.C. § 78u-6(h)(1)**  
5 **(Against all Defendants)**

6 74. Plaintiff incorporates by this reference the allegations in the preceding  
7 paragraphs.

8 75. Plaintiff was threatened, harassed, discriminated against and ultimately  
9 discharged by Saturna because of lawful acts he reasonably ,and in good faith, believed were  
10 necessary for disclosures and other actions that were required and protected under the  
11 Sarbanes-Oxley Act of 2002 (15 U.S.C. § 7201 et seq.), the Securities Exchange Act of 1934  
12 (15 U.S.C. § 78a et seq.) and other laws, rules and regulations subject to the jurisdiction of the  
13 Securities and Exchange Commission. Defendants Kaiser and Carten personally directed and  
14 participated in the misconduct of Saturna alleged herein.

15 76. Plaintiff is entitled to relief pursuant to 15 U.S.C. § 78u-6(h)(1)(C), including  
16 but not limited to: reinstatement with the same seniority status that Plaintiff would have had but  
17 for the discrimination; 2 times the amount of back pay otherwise owed (including bonuses and  
18 stock options), with interest; and compensation for special damages, including litigation costs,  
19 expert witness fees and reasonable attorney fees.

20 **THIRD CAUSE OF ACTION**  
21 **(Wrongful Discharge in Violation of Public Policy)**  
22 **(Against all Defendants)**

23 77. Plaintiff incorporates by this reference the allegations in the preceding  
24 paragraphs.

25 78. There is a clear public policy that investment advisers adhere to federal and  
26 Washington state securities regulations. Discouraging Plaintiff's repeated efforts to induce  
27 Defendants' compliance with securities regulations would jeopardize that public policy.  
Plaintiff's compliance efforts caused his dismissal by Saturna and Defendants did not have an  
overriding justification for the dismissal.

COMPLAINT FOR DAMAGES AND JURY DEMAND - 26

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1 79. Defendants' conduct caused emotional distress, loss of opportunities for  
2 advancement and professional stature in the securities industry and legal community, and loss  
3 of income to Plaintiff. Defendants are jointly and severally liable for such damage.

4 **FOURTH CAUSE OF ACTION**  
5 **(Intentional Infliction of Emotional Distress)**  
6 **(Against all Defendants)**

7 80. Plaintiff incorporates by this reference the allegations in the preceding  
8 paragraphs.

9 81. Plaintiff suffered from extreme and outrageous conduct by Defendants over an  
10 extended period. Defendants' conduct was reckless, intentional and severe.

11 82. As a result of Defendants' conduct, Plaintiff suffered emotional distress for  
12 which Defendants are liable to pay monetary damages in an amount to be proved at trial.

13 **FIFTH CAUSE OF ACTION**  
14 **(In the Alternative, Constructive Discharge)**  
15 **(Against all Defendants)**

16 83. Plaintiff incorporates by this reference the allegations in the preceding  
17 paragraphs.

18 84. Defendants' conduct established a continuous pattern of deliberate acts by  
19 Saturna that made Plaintiff's working conditions so intolerable that a reasonable person would  
20 have felt compelled to resign. If Plaintiff is found to have resigned, he did so because of the  
21 continuing pattern of intolerable conditions and not because of his desire for a pay raise or any  
22 other reason.

23 85. As a result of Defendants' conduct, Plaintiff has suffered emotional distress, loss  
24 of opportunities for advancement and professional stature in the securities industry and legal  
25 community, and loss of income. Defendants are jointly and severally liable for such damage.

26 **SIXTH CAUSE OF ACTION**  
27 **(Breach of Securities Industry Ethical Duties)**  
**(Against all Defendants)**

86. Plaintiff incorporates by this reference the allegations in the preceding  
paragraphs.

COMPLAINT FOR DAMAGES AND JURY DEMAND - 27

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87. SEC Rule 204A-1 issued under the Investment Advisers Act of 1940 required Saturna to observe high standards of ethical conduct in its investment adviser business and adopt a code of conduct. Likewise, FINRA Rule 2010 required SBS to observe high standards of commercial honor and just and equitable principles of trade. Saturna's Code of Conduct purported to embody and implement these ethical standards. Saturna had a duty to its employees to observe these industry and entity standards. Saturna's ethical standards created an atmosphere of job security and fair treatment with promises of management's appreciation of efforts to ensure compliance with securities regulations and corporate duties. Plaintiff justifiably relied on the promises inherent in Saturna's Code of Conduct and industry standards it purported to implement. Saturna breached its duty to Plaintiff by taking action against Plaintiff because of his reasonable efforts to ensure compliance with regulations.

88. Saturna's breach of its duty to deal with Plaintiff consistently with applicable ethical standards caused damage to Plaintiff. Defendants Kaiser and Carten instigated and participated in Saturna's breach of duty. As a result of Defendants' conduct, Plaintiff has suffered emotional distress, loss of opportunities for advancement and professional stature in the securities industry and legal community, and loss of income. Defendants are jointly and severally liable for such damage.

## RELIEF REQUESTED

1. Plaintiff should be awarded compensatory damages including the equivalent of reinstatement, back pay, future lost income, presumed defamation damages and emotional distress damages.

2. Plaintiff should be awarded enhanced damages under applicable statutes.

3. Plaintiff should be awarded costs, reasonable attorney fees, expert fees and such other relief as is appropriate.

**JURY DEMAND**

Plaintiff demands a trial by jury.

DATED this 25th day of February 2016.

LANE POWELL PC

By: /s/ Christopher B. Wells

Christopher B. Wells, WSBA No. 08302  
[wellsc@lanepowell.com](mailto:wellsc@lanepowell.com)

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Attorneys for Plaintiff